THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No. 4404 of 2006

03.04.2006

Between:

V.Ram Mohan Rao.

…Petitioner

And

The Commercial Tax Officer, Governorpet, Vijayawada and another.

….Respondents.

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No. 4404 of 2006

ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned Counsel for the parties.

The petition has been filed seeking a direction to the 1st respondent to give credit of an amount of Rs.17 lakhs for the

assessment year 2003-2004. According to the petitioner, this amount had been deducted at source and paid to the Department, but the assessing authority did not give credit to it on the ground that he had not received receipts of challans from the contractees. Even in the counter-affidavit it has not been denied that the amount of Rs.17 lakhs had been received by the Department after it had been deducted at source. The petitioner has already filed an appeal before the appellate authority and he submits that his appeal would be dismissed on the sole ground that he had not deposited 12.5% of the disputed amount in terms of Section 19 of the A.P.General Sales Tax Act, 1957, therefore, he has approached this Court.

Since this Court is *prima facie* convinced that the petitioner has already paid Rs.17 lakhs as it has not been specifically denied by the respondents, therefore, we dispose of this writ petition directing the appellate authority to decide the appeal, taking into consideration the assertions made by the petitioner that he had already paid Rs.17 lakhs and without insisting for payment of 12.5% of the disputed tax. However, if the petitioner's assertion is not proved that Rs.17 lakhs had been deducted at source and had been paid towards the tax liability, the Department shall be at liberty to impose penalties in accordance with law. No coercive steps shall be taken against the petitioner for recovery of the amounts till disposal of the appeal.

Petition is accordingly disposed of. No costs.

_____

(BILAL NAZKI, J)

3rd April 2006

_____

(G.CHANDRAIAH,J)

N.B:-

Copy in two days.

(B/o)

ajr